

Order

Entered: November 19, 2002

2002-46

Proposed Amendment of Rules 7.304, 9.114,
and 9.122 of the Michigan Court Rules

Michigan Supreme Court Lansing, Michigan

Maura D. Corrigan,
Chief Justice

Michael F. Cavanagh
Elizabeth A. Weaver
Marilyn Kelly
Clifford W. Taylor
Robert P. Young, Jr.
Stephen J. Markman,
Justices

On order of the Court, this is to advise that the Court is considering an amendment of Rules 7.304, 9.114, and 9.122 of the Michigan Court Rules. Before determining whether the proposal should be adopted, changed before adoption, or rejected, this notice is given to afford any interested person the opportunity to comment on the form or the merits of the proposal. The Court welcomes the views of all who wish to address the proposal or who wish to suggest alternatives. The proposal also will be considered by the Court at a public hearing. Notice of future public hearings will be posted by the Court at www.courts.michigan.gov/supremecourt.

Publication of this proposal does not mean that the Court will issue an order on the subject, nor does it imply probable adoption of the proposal in its present form.

[The present language would be amended as indicated below.]

Rule 7.304 Original Proceedings

- (A) When Available. A complaint may be filed in the Supreme Court to implement the Court's superintending control power when an application for leave to appeal cannot be filed. A complaint ~~for mandamus~~ may be filed to implement the Court's superintending control power over the Board of Law Examiners, the Attorney Discipline Board, or the Attorney Grievance Commission.
- (B) [Unchanged.]
- (C) Answer.
 - (1) [Unchanged.]
 - (2) The grievance administrator's answer to a complaint ~~for mandamus~~ against the Attorney Grievance Commission must show the investigatory steps taken and other pertinent information.

- (D) [Unchanged.]
- (E) [Unchanged, but see proposal in ADM File No. 2002-40.]

Rule 9.114 Action by Administrator or Commission After Answer

- (A) [Unchanged.]
- (B) [Unchanged.]
- (1)- (3) [Unchanged.]
- (4) The placing of a respondent on contractual probation shall constitute a final disposition that entitles the complainant to notice in accordance with MCR 9.114(D), and to file an ~~a mandamus~~ action in accordance with MCR 9.122(A)(2).
- (C) - (E) [Unchanged.]

Rule 9.122 Review by Supreme Court

- (A) Kinds Available; Time for Filing.
 - (1) [Unchanged.]
 - (2) If a request for investigation has been dismissed under MCR 9.112(C)(1) or 9.114(A), a party aggrieved by the dismissal may file a complaint ~~for mandamus~~ in the Supreme Court under MCR 7.304.
- (B) - (E) [Unchanged.]

Staff Comment. The proposed amendments of MCR 7.304, 9.114, and 9.122 clarify that a complaint for mandamus is inappropriate in instances where a party really is asking the Supreme Court to exercise its power of superintending control over the Board of Law Examiners, the Attorney Discipline Board, or the Attorney Grievance Commission.

The staff comment is published only for the benefit of the bench and bar and is not an authoritative construction by the Court.

A copy of this order will be given to the Secretary of the State Bar and to the State Court Administrator so that they can make the notifications specified in MCR 1.201. Comments on this proposal may be sent to the Supreme Court Clerk in writing or electronically by March 1, 2003, Clerk's Office, Michigan Supreme Court, P.O. Box 30052, Lansing, MI 48909, or MSC_clerk@courts.mi.gov. When filing a comment, please refer to File No. 2002-46. Your comments and the comments of others will be posted at www.courts.michigan.gov/supremecourt.